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## **BY FAX AND HAND-DELIVERY**

June 22, 2007

Tracey Ligon, Esq.  
Office of the General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: **M.U.R. 5871 – Margaret B. Thurber**

Dear Ms. Ligon:

On behalf of our client, Margaret Thurber, we are writing in response to the Commission's Reason to Believe notice in M.U.R. 5871. Although Ms. Thurber has formally requested pre-probable cause conciliation in this matter, we are providing this response at your suggestion. Accompanying the response is a signed Declaration from Ms. Thurber. Please note that Ms. Thurber reserves her right to receive and respond to the General Counsel's Report pursuant to 11 C.F.R. § 111.16. As explained below, and as discussed at our meeting on May 22 and in our letter of May 25, 2007, we submit that Ms. Thurber has not violated FECA and should be dismissed from this M.U.R. without imposition of a civil penalty.

### **Factual Background**

Ms. Thurber is a former County Commissioner for Lucas County, Ohio. *See* Declaration of Margaret B. Thurber ("Decl.") ¶ 1. She was elected in 2002 and served a full 4-year term. *Id.* As the only Republican County Commissioner in Lucas County, Ms. Thurber was the among the highest-ranked Republican elected officials in all of Northern Ohio, and she was active in Ohio Republicans' campaigns for elected office. *Id.* During the 2004 Presidential campaign, Ms. Thurber was a strong public supporter of the Bush-Cheney '04 campaign. *Id.* ¶ 2. Because of her elected office and Ohio's importance to President Bush's re-election, Ms. Thurber was frequently asked to represent the Bush-Cheney '04 campaign at political events. *Id.* On at least one occasion, she also served as the Master of Ceremonies at a Bush-Cheney '04 event. *Id.*

During the 2004 Presidential primary cycle, the Bush-Cheney '04 campaign held a \$2,000 per person fundraising event in Columbus, Ohio on October 30, 2003. *Id.* ¶ 3. Ms. Thurber planned to attend the event well in advance of its scheduled date, and she and her husband had already decided early in 2003 to make the maximum \$4,000 spousal contribution to the Bush-Cheney '04 primary campaign. *Id.* Ms. Thurber had already contributed \$100 to the Bush-Cheney '04

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campaign earlier in the primary cycle, and had also made a second contribution that was later transferred to the campaign's legal compliance fund. *Id.*

Sometime before October 23, 2003, Ms. Thurber completed her RSVP-Donor card for the October 30 fundraiser. *Id.* ¶ 4. Ms. Thurber also made a \$3,900 spousal contribution by credit card. *Id.* The Bush-Cheney '04 campaign processed this payment on October 31, 2003. *Id.*, Ex. A (credit card statement). Ms. Thurber and her husband had their photograph taken with President Bush at the fundraiser, and later ordered a reprint. *Id.*, Ex. B (photograph and receipt).

Separately, on October 23, 2003, Ms. Thurber's husband gave her a \$3,750 check – payable to Mr. Thurber personally– and asked her to deposit it at the bank. *Id.* ¶ 6. The check was from the Thurburs' family friend, and Ms. Thurber's political ally, Mr. Thomas Noe. *Id.* Mr. Thurber, who has a small consulting business but does not do all of his work through it, told Ms. Thurber that the payment was for "work." *Id.* Because the check was endorsed to Mr. Thurber personally, and because Ms. Thurber managed only the family's joint checking account, she automatically deposited the check into this account. *Id.* ¶¶ 5-6. Ms. Thurber had no reason to question her husband's explanation for the check, nor did she. *Id.* ¶ 6.

In connection with the FBI's investigation of Mr. Noe in 2005, Ms. Thurber became aware for the first time that Mr. Noe had been accused of contributing to the Bush-Cheney '04 campaign through several conduits, including Ms. Thurber herself. *Id.* ¶ 7. Up until this time, Ms. Thurber had believed and understood that Mr. Noe's \$3,750 payment to her husband was entirely unrelated to their contribution to the Bush-Cheney '04 campaign. *Id.* ¶ 9.

Ms. Thurber cooperated fully with the FBI during its investigation of Mr. Noe in 2005. After her initial contact from the FBI, she was interviewed at length and later testified to the Grand Jury about the circumstances of Mr. Noe's payment to Mr. Thurber. *Id.* ¶ 7. Ms. Thurber also informed the FBI that Mr. Noe had contacted her before her FBI interview and suggested that she tell investigators that his payment to Mr. Thurber was a "loan." *Id.* ¶ 8. Ms. Thurber refused Mr. Noe's suggestion of a "cover story," and instead promptly disclosed it to the FBI. *Id.* In recognition of her cooperation, Ms. Thurber received a federal non-prosecution agreement concerning Mr. Noe's "conduit" contributions. *Id.* ¶ 7.

### Analysis

As stated in the Commission's Reason to Believe notice, FECA prohibits an individual from "knowingly" permitting her name to be used to facilitate a campaign contribution "in the name of another." See 2 U.S.C. § 441f; 11 C.F.R. § 110.4.(b)(1)(iii). Moreover, "knowing and willful" violations of FECA require *knowledge* by the individual that she is *violating the law*. See *FEC v. John A. Dramesi for Congress Comm.*, 640 F. Supp. 985, 987 (D.N.J. 1986). That an act is "knowing and willful" may be inferred from an individual's "elaborate scheme for disguising" her actions. See *United States v. Hopkins*, 916 F.2d 207, 214-15 (5th Cir. 1990). Here, the facts plainly demonstrate that Ms. Thurber did not "knowingly" permit Mr. Noe to

make a contribution to the Bush-Cheney '04 campaign in her name, nor did she "knowingly and willfully" violate FECA. Ms. Thurber also engaged in no "scheme" to "disguise" her conduct.

*First*, as noted above and in Ms. Thurber's Declaration, her decision to contribute to the Bush-Cheney '04 campaign was reached independently of Mr. Noe or the prospect of any payment from him. Ms. Thurber routinely attended political events and contributed to the campaigns of candidates for elected office. As a Republican elected official in Ohio, she participated in party politics and was a vocal supporter of President Bush. It was entirely consistent with Ms. Thurber's elected position and normal course of conduct for her to make a maximum spousal contribution to the Bush-Cheney '04 primary campaign and attend a fundraising event.

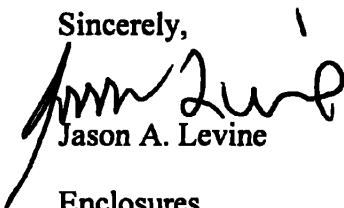
*Second*, Ms. Thurber genuinely believed that Mr. Noe's check to her husband was for "work," as he had described it. As Ms. Thurber states in her Declaration, she did *not* have a reason to suspect – nor did she believe – that Mr. Noe's payment was intended as a reimbursement for her contribution to the Bush-Cheney '04 campaign. This conclusion is bolstered by the facts that: (1) Ms. Thurber received and deposited Mr. Noe's check well *after* she had independently decided to pay for and attend the reception on October 30, 2003; and (2) Mr. Noe's payment was for less than the amount the Thurbers contributed for the reception. For these reasons, Ms. Thurber had no reason to "know" that anything improper or unusual had occurred.

*Finally*, Ms. Thurber cooperated fully with the FBI in its investigation of Mr. Noe by providing a lengthy interview and testifying against Mr. Noe before the Grand Jury. Indeed, when Mr. Noe suggested a "cover story" for Ms. Thurber – that his payment to Mr. Thurber was a mere "loan" – she promptly told the FBI about the conversation. In so doing, Ms. Thurber *refused* to participate in a "scheme" to "disguise" her conduct. Recognizing her forthrightness and assistance in the investigation and prosecution of Mr. Noe, the U.S. Attorney for the Northern District of Ohio conferred upon her a federal non-prosecution agreement. Had Ms. Thurber attempted to "disguise" her actions, she surely would not have received such treatment.

### Conclusion

For the foregoing reasons, we submit that Ms. Thurber did not violate FECA, and did not "knowingly" or "knowingly and willfully" allow her name to be used by Mr. Noe to effectuate conduit contributions. No inference of a FECA violation is appropriate here because, among other reasons, Ms. Thurber did not engage in a "scheme" to "disguise" her actions. Accordingly, we request that the Commission: (1) find no probable cause to believe that Ms. Thurber violated FECA; and (2) dismiss her from M.U.R. 5871 without imposition of a civil penalty.

Sincerely,



Jason A. Levine

Enclosures

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**BEFORE THE FEDERAL ELECTION COMMISSION  
MATTER UNDER REVIEW NO. 5871**

**DECLARATION OF MARGARET B. THURBER**

I, Margaret B. Thurber hereby declare as follows based upon my personal knowledge:

1. I am a former County Commissioner for Lucas County, Ohio. I was elected to this position in 2002 and I served a full 4-year term in office. I did not seek re-election. During my term, I was the only Republican County Commissioner in Lucas County, and as a result I was one of the highest-ranked Republican officeholders in Northern Ohio. Because of my position, I participated in Republican politics and was especially active at the local level. For example: (a) I campaigned for and helped try to elect Republican candidates; (b) I attended events for U.S. Senator George Voinovich's re-election campaign and for state officeholders such as Jim Petro, Betty Montgomery, and Bob Taft; and (c) I contributed financially to Ohio candidates during the 2004 election cycle.

2. I was a strong supporter President George W. Bush in connection with his re-election campaign, and I engaged in volunteer activities for Bush-Cheney '04. It was my understanding that Lucas County, Ohio was targeted by the campaign as a get-out-the-vote region for the 2004 Presidential Election. For this reason, I was asked by the Bush-Cheney '04 campaign to serve as a guest speaker at several Ohio campaign events. I also served as the Master of Ceremonies on at least one of these occasions.

3. Early in 2003, consistent with my position in Ohio politics and my support for President Bush, my husband, Sam Thurber, and I decided that we would make a maximum spousal contribution of \$4,000 to the Bush-Cheney '04 primary campaign. In early October 2003, I learned of a \$2,000 per person fundraiser for the campaign that was scheduled for

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October 30, 2003. President Bush was to attend this event. My husband and I decided to attend the fundraiser because it was an opportunity to meet President Bush and to complete our \$4,000 contribution to his primary campaign. We had already contributed \$100 to Bush-Cheney '04 earlier in the election cycle. After October 30, I recalled that we had also made another contribution of \$100 or more to the Bush-Cheney '04 campaign that was separate from the fundraiser. After the primary election, we received notification from the campaign that we could request a refund of the amount of our contributions that exceeded \$4,000, or allow the campaign to deposit the sum into its legal compliance account. We did not request a refund.

4. I completed the RSVP-Donor card for the October 30 event before October 23, 2003; however, I do not recall when I mailed it to the Bush-Cheney '04 campaign. I made our \$3,900 contribution by credit card. The contribution was processed by the Bush-Cheney '04 campaign on October 31, 2003. A copy of our credit card statement listing this contribution is attached to this Declaration as Exhibit A. My husband and I attended the October 30 event and we had our photograph taken with President Bush. A copy of this photograph is attached to this Declaration as Exhibit B.

5. In 2003, my husband had recently started his own consulting business. Although we shared a joint checking account for our personal finances, my husband maintained a separate bank account for his business's finances. I routinely made deposits into and paid expenses from our personal bank account, but I did not make deposits into the business bank account without specific instructions and did not prepare deposit slips for this account.

6. I have known Thomas Noe and his wife Bernadette personally for many years. I once considered Mr. Noe to be a close and trustworthy friend. On or about October 23, 2003,

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my husband gave me a check from Mr. Noe for \$3,750. This check was payable to my husband personally, and I deposited it into our joint checking account. My husband said that the check was for "work." I never considered questioning his explanation, nor did I have any reason to doubt its truthfulness. Moreover, it did not strike me as unusual or inappropriate that I should deposit the check into our personal account, since I did not know what the "work" involved. I did not speak with Mr. Noe about the check.

7. In 2005, I became aware that Mr. Noe was being investigated for allegedly contributing to federal candidates for elected office through "conduits." As part of this investigation, much to my shock and surprise, I was confronted by the FBI about Mr. Noe's \$3,750 check to my husband, as well as our spousal contribution for the Bush-Cheney '04 event on October 30, 2003. After this initial contact, I cooperated fully with the FBI in their investigation of Mr. Noe, providing a detailed interview and testifying against him before the Grand Jury. I received a non-prosecution agreement from the U.S. Attorney for the Northern District of Ohio, and I was not charged with any federal criminal offenses arising from Mr. Noe's conduct.

8. Shortly before I was interviewed by the FBI, Mr. Noe telephoned me and suggested that I characterize his \$3,750 check to my husband as a "loan." I refused to do so, and instead promptly informed the FBI of Mr. Noe's statement even before the interview began.

9. When I decided to make a contribution to the Bush-Cheney '04 campaign for the October 30, 2003 fundraiser, I was not yet aware of Mr. Noe's check, nor had I received it from my husband. Further, when I deposited Mr. Noe's check into our joint checking account, I had

no reason to believe, and I did not know, that Mr. Noe intended this payment as reimbursement for the contribution to the Bush-Cheney '04 campaign.

I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information, and belief.

  
Margaret B. Thurber

Date: June 24, 2007

**EXHIBIT A**

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Customer name: Margaret L. Thurber  
 Account number: [REDACTED]  
 Statement date: Nov. 6, 2003

[illegible][illegible]

1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 26

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**EXHIBIT B**

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# REFLECTIONS

EVENT PHOTOGRAPHY

Reflections Photography  
631 Pennsylvania Avenue, SE  
Washington, DC 20003

800.835.8201

Columbus, OH - Bush-Cheney '04 with President Bush  
Order: 1824783 placed on 11/14/2006 6:29:15 PM

Receipt (This is not a bill)

Shipped	Qty	Item	Photo	Unit Price	Total
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1 5X7 Print

\$21.99 \$21.99

3761-003-007

Sales Tax	\$0.00
Shipping & Handling	\$4.50
Order Total	\$26.49

Thank you for ordering from Reflections Photography!

NOTE: Prints (sizes 8X10 and smaller), Posters (sizes 8X12 and larger), and Products (plaques, etc.) will ship separately.

We appreciate the opportunity to deliver top quality pictures to you. As always, all orders are unconditionally guaranteed. If you are not satisfied with your prints for any reason, just let us know so that we can issue you reprints or a refund.

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